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In re Application of :
GUTENDORF *et al* :
U.S. Application No.: 10/531,825 :
PCT No.: PCT/DE03/03442 :
Int. Filing Date: 17 October 2003 :
Priority Date: 18 October 2002 :
Attorney's Docket No.: KRO-10202/36 :
For: MOTOR VEHICLE WITH A MOVING :
HOOD :

DECISION

This is a decision on the request to add an inventor in the above-captioned application filed 05 January 2006 which is treated under 37 CFR 1.497(d).

BACKGROUND

On 26 September 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. Applicants were given two months to respond with extensions of time available.

On 17 October 2005, applicants submitted a declaration signed by three joint inventors. However, the international publication ("WO 2004/037580") lists only two inventors for PCT/DE03/03442.

On 05 January 2006, applicants filed the subject petition which was accompanied by, *inter alia*, the petition fee; a declaration; a "Statement of Jorg Jahn"; a "Statement of Reiner Hinrichs"; and a "Statement of Peter Gutendorf."

DISCUSSION

Applicants request to add Jorge Jahn as inventor in the above-captioned application. 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

- (1) A statement from each person being added as an inventor . . . that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in § 1.17(l); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Here, applicants filed a statement by Jorg Jahn who requests to be added as an inventor in the above-captioned application. Mr. Jahn states that the "error arose without any deceptive intention on my part." The processing fee of \$130.00 has been charged to Deposit Account No. 07-1180 as authorized. Items (1) and (2) above are satisfied.

However, applicants have not provided the written consent of the assignee or addressed whether an assignment has been executed in the above-captioned national stage application. Applicants must address this item for a grantable petition. For this reason, item (3) is not yet satisfied.

Therefore, all the requirements of 37 CFR 1.497(d) are not yet satisfied.

CONCLUSION

For the reason discussed above, applicants' request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

The declaration filed 17 October 2005 is not yet in compliance with 37 CFR 1.497(a) and (b).

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Applicants must address item (3) of 37 CFR 1.497(d) with any response. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT

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